United Nations A/53/429 – S/1998/857

General Assembly
Security Council

Distr.: General
23 September 1998

Original: English

General Assembly
Fifty-third session
Agenda item 50

Security Council
Fifty-third year

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the third annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Criminal Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

98-28044 (E) 280998

Annex

[Original: French]

Third annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Contents

		Paragraphs	Page
I.	Introduction	1–8	3
II.	Summary of activities	9–134	4
	A. The Chambers	9–47	4
	1. Regulatory activities	13–15	4
	2. Judicial activities	16–47	5
	B. The Office of the Prosecutor	48–75	8
	1. Strategy of the Office of the Prosecutor	49–62	8
	2. Judicial activities of the Office of the Prosecutor	63–69	9
	3. Other activities of the Office of the Prosecutor	70–75	10
	C. The Registry	76–134	10
	1. Judicial activities	77–93	10
	2. Information and communication activities	94–101	12
	3. Group on Gender Issues	102–109	13
	4. Library	110–113	14
	5. Administration	114–134	15
III.	Cooperation	135–159	17
	A. Strengthening of cooperation with the International Criminal Tribunal for the former Yugoslavia	135–144	17
	B. Cooperation with States	145–152	18
	1. Legal cooperation: arrests	145	18
	2. Legal cooperation: witnesses	146–149	18
	3. *Amicus curiae*	150–152	18
	C. Need for cooperation in the enforcement of prison sentences	153–158	19
	D. Support provided by various organizations for the Tribunal's activities	159	19
IV.	Conclusion	160–162	19

I. Introduction

1. Since the submission of the second annual report to the General Assembly, the judicial activities of the International Criminal Tribunal for Rwanda have increased substantially. To date, 43 individuals have been indicted by the Tribunal and arrest warrants have been issued for each of them. Of these individuals, 31 have been apprehended by various States and handed over to the Tribunal for detention in its Detention Facility. One indictee, arrested in the United States of America, is still being held in that country pending his transfer to Arusha.

2. The first judgement ever handed down by an international court on the crime of genocide was that rendered by the Tribunal for Rwanda on 2 September 1998 in the case *The Prosecutor v. Jean-Paul Akayesu*. The accused was found guilty on nine counts – including genocide – of the 15 counts contained in the indictment against him. The pre-sentencing hearing will be held in September 1998 and sentencing will take place after the end of that month. The presentation of evidence for the defence in the joint case *The Prosecutor v. Clément Kayishema and Obed Ruzindana* ended in the first half of September, meaning that the second of the three trials begun before the Tribunal in 1997 is nearing an end. The third trial, in the case *The Prosecutor v. Georges Rutaganda*, will resume shortly. It has been adjourned repeatedly because of health problems of the accused and then of his lawyer.

3. On 1 May 1998, the Tribunal recorded the first guilty plea by an accused. Jean Kambanda, Prime Minister of the Interim Government established in Rwanda after the 6 April 1994 air crash in which President Habyarimana was killed, freely and voluntarily pleaded guilty to all the counts in the indictment against him, including those of genocide, direct and public incitement to commit genocide, complicity in genocide and crimes against humanity. Given the position occupied by Jean Kambanda at the time, his plea has implications beyond the issue of his own individual responsibility. In pleading guilty, the former Prime Minister not only acknowledged and confirmed that genocide did indeed occur in Rwanda in 1994 but also indicated that it was organized and planned at the highest levels, both civilian and military. This event is an historic one, in that it is the first time that anyone has pleaded guilty to the crime of genocide before an international criminal court. Jean Kambanda was sentenced to life imprisonment on 4 September 1998. The defence appealed the sentence on 7 September 1998.

4. These major developments must not, however, hide the fact that the judges are still encountering many difficulties in their work. The Tribunal still does not have the necessary technical resources and staff, despite its heavy workload. Under the Prosecutor's direction, further arrests have been made, *inter alia*, in the course of operations conducted in cooperation with the Kenyan authorities in July 1997 and with the authorities of many West African countries in 1998. The persons apprehended on these occasions had all occupied positions of authority in the Government or the armed forces or had in other ways been highly influential and well known in Rwanda in 1994. In addition to Jean Kambanda, another former minister was arrested on this occasion: Pauline Nyiramasuhuko, the first woman to be indicted by an international court. The addition of these new indictees to the detainees already awaiting or undergoing trial is making it more difficult to organize the judicial calendar, given the right of everyone charged with an offence to be tried without undue delay. Despite the fact that, for the reason just indicated, the consideration of some motions has not always been as expeditious as the judges would have wished, the two Trial Chambers have, to date, published some 150 decisions relating both to the indictment procedure and to various motions concerning, for instance, witness protection measures or preliminary motions.

5. The judges welcome the considerable efforts made by the new administration, under the direction of the Registrar, to improve the administrative and logistical support provided to the Chambers and the Prosecutor in their respective tasks. Following the construction of a second courtroom, which has indisputably speeded up proceedings, the gradual establishment of a legal reference library has made it easier to access the information needed to take decisions. The additional efforts under way should nevertheless be stepped up in order to expedite the solution of those problems which still remain. These include improving courtroom audio-visual equipment, computerizing judicial files and strengthening the human resources assigned to the translation and interpretation section.

6. At the Tribunal's request, the Security Council decided, by its resolution 1165 (1998) of 30 April 1998, to establish a third Trial Chamber in response to the difficulties encountered by the trial judges in discharging their responsibilities, responsibilities made complex by the combination of an ever-increasing number of detainees and the need to observe certain norms and principles governing the administration of justice.

7. In the resolution in question, the Security Council urged the organs of the Tribunal to continue their efforts to increase the efficiency of the Tribunal's work in their

respective areas, thereby enhancing procedures so that trials could be conducted more quickly. The Tribunal for Rwanda, like its counterpart, the International Criminal Tribunal for the former Yugoslavia, has in fact frequently been criticized for conducting trials too slowly. Experience has shown, however, that if this is the case it is because of a combination of at least two factors: first, the desire of the judges, given the seriousness of the crimes attributed to the accused, to dispense a justice which is beyond reproach and which is based on full respect for their rights and, secondly, the fact that the Tribunal's procedures themselves do not always allow justice to be dispensed promptly, as required by the general principles of law and by the Tribunal's Statute, particularly articles 19 and 20 thereof. Accordingly, the judges thought it advisable to consider amending the Rules of Procedure and Evidence ("the Rules") to eliminate anything that might slow down proceedings, in order to expedite trials. Much of this procedural reform, undertaken jointly by the judges of the two ad hoc international tribunals, was already put into effect at the fifth plenary session of the Tribunal for Rwanda, held in Arusha from 1 to 5 June 1998, at which numerous amendments to the Rules were adopted.

8. The present annual report, which reflects developments at the Tribunal since the submission of the second report in July 1997, describes the activities of the Chambers, the Prosecutor and the Registrar, then goes on to describe the Tribunal's cooperation with Member States, particularly Rwanda, and with other institutions, including the International Tribunal for the former Yugoslavia.

II. Summary of activities

A. The Chambers

9. On 24 and 25 May 1995, the General Assembly elected six judges for a four-year term of office. Judges Lennart Aspegren, Navanethem Pillay and Laïty Kama made up Trial Chamber I, presided over by Judge Kama, and Judges Tafazzal Hossein Khan, Yakov Ostrovsky and William Hussein Sekule made up Trial Chamber 2, presided over by Judge Sekule.

10. During the Tribunal's second plenary session, in 1995, Judge Laïty Kama had been elected President of the Tribunal, and Judge Yakov Ostrovsky Vice-President. Their term of office was extended at the fourth plenary session, held in Arusha in June 1997.

11. The present composition of the Appeals Chamber is as follows: Judge Gabrielle Kirk McDonald, President; Judge Mohamed Shahabuddeen; Judge Lal Chand Vohrah; Judge Wang Tieya; and Judge Rafael Nieto Navia.

12. In its resolution 1165 (1998), the Security Council decided to establish a third Trial Chamber. It also decided that the elections for the judges of the three Trial Chambers would be held together, for a term of office to expire on 24 May 2003. As an exceptional measure, to enable the third Trial Chamber to begin to function at the earliest possible date, the elections should take place as soon as possible.

1. Regulatory activities

13. During the fourth plenary session, held in Arusha from 2 to 6 June 1997, a number of amendments to the Rules were adopted. A new rule (7 *bis*) was adopted so as to authorize the President to report to the Security Council any failure by a State to assist the Tribunal on the basis of a request from a Trial Chamber, a Judge or the Prosecutor acting under article 28 of the Statute.

14. The Rules were also amended with a view to:

Clarifying the procedure for requests for deferral submitted to the national authorities by the Tribunal in respect of investigations and criminal proceedings;

Allowing a judge who ordered, under rule 40 *bis*, the transfer and provisional detention of an accused to sit on the Trial Chamber hearing the case against the accused;

Providing long-term arrangements for the protection of witnesses called before the Tribunal;

Authorizing the Registrar to replace assigned counsel in exceptional cases and in cases of breaches of the rules of ethics;

Indicating to the Prosecutor the deadlines for communicating to the defence supporting material and witness statements, and bringing provisions governing items not to be communicated into line with the corresponding provisions of the Rules of Procedure and Evidence of the Tribunal for the former Yugoslavia;

Indicating to the two sides the procedure and deadlines for filing preliminary motions and other applications;

Clarifying the procedure for prosecuting and trying witnesses accused of giving false evidence.

15. At the fifth plenary session (Arusha, 1–5 June 1998), the Tribunal adopted substantial amendments to the Rules,

with a view to expediting proceedings before it. The amendments include the following: the decision to combine into a single procedure the trial phase and the sentencing phase; the holding of status conferences prior to the presentation of evidence by each side, during which the parties may be invited to highlight contested or uncontested points or issues, so as to enable the Chamber, the Judge or others to limit the number of witnesses called to establish the same facts; the decision to accept as evidence written depositions by expert witnesses, without the need for appearances in person before the Tribunal, subject to the other side's acceptance of such testimony. The Tribunal adopted a number of amendments to the Directive on the Assignment of Defence Counsel. They are intended, *inter alia*: (i) to provide a code of ethics for the functioning of defence counsel before the Tribunal; (ii) to improve the standard of counsel likely to represent indigent suspects or defendants, by providing that only persons with a minimum of 10 years of recognized experience will be eligible; (iii) to streamline the management of public funds allocated for the representation of indigent persons before the Tribunal.

2. Judicial activities

(a) Trials in progress

(i) Trial Chamber I

a. *The Prosector v. Jean-Paul Akayesu* (ICTR-96-4-T)

16. The resumption, on 13 October 1997, of the Akayesu trial was marked by the reading, in open court, of the new indictment, amended as authorized by the Trial Chamber on 17 June 1997. The accused was then invited to plead guilty or not guilty to each of the three new counts, relating to crimes of sexual violence, laid against him. Mr. Akayesu pleaded not guilty to all the counts.

17. The Prosecutor resumed the case for the prosecution by presenting evidence relating to the alleged crimes of sexual violence, as set forth in the aforementioned amended indictment. Special protective measures were taken by the Tribunal and the parties when the victims were heard.

18. The defence called its first witness on 17 November 1997. The last witness for the defence, the accused himself, Jean-Paul Akayesu, appeared on 12 March 1998. An order issued under rule 90 *bis* made it possible – with the cooperation of the Rwandese and Tanzanian Governments – to transfer to the Tribunal's headquarters three defence witnesses held in Rwanda. The defence also called General Roméo Dallaire, Force Commander, in 1994, of the United Nations Assistance Mission for Rwanda (UNAMIR). Before he testified, the Trial Chamber had invited a representative of the United Nations Secretary-General to appear as an amicus curiae in order to explain the limitations on the lifting of the immunity of General Dallaire, as stated by the Secretary-General.

19. The pleas having been completed, the Tribunal began its deliberations on 26 March 1998. In its judgement rendered on 2 September 1998, it found Jean-Paul Akayesu guilty on nine counts: genocide, direct and public incitement to commit genocide, and crimes against humanity (extermination, murder, torture, rape, and other inhumane acts). On the other hand, his guilt was not established with respect to the six other counts: complicity in genocide, violation of article 3 common to the Geneva Conventions of 1949 (murder, and cruel treatment), violation of article 3 common to the Geneva Conventions of 1949, and of article 4, paragraph 2 (e), of Additional Protocol II (outrage upon personal dignity, in particular humiliating and degrading treatment, rape and indecent assault).

20. Thanks to this decision – a historic decision for more reasons than one – it was possible to interpret and implement the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and, for the very first time, an international criminal jurisdiction recognized that genocide had occurred in Rwanda in 1994. Attempting a definition of rape, an act that has no generally accepted definition in international law, the Trial Chamber concluded that the acts of sexual violence, in common with the other serious attacks on the physical and mental integrity of the Tutsi, were consistent with the specific intent of destroying that group.

21. The pre-sentencing hearing for Jean-Paul Akayesu was scheduled for 28 September 1998. Sentencing should take place shortly thereafter.

b. *The Prosecutor v. Georges Anderson Rutaganda* (ICTR-96-3-T)

22. The Rutaganda trial resumed on 29 September 1997 after the court vacation. When the first hearing began, the Trial Chamber, acting on a request by the accused to which the defence counsel did not object, authorized replacement of the chief defence counsel. Since then, the assistant counsel has been responsible for the defence of Georges Anderson Rutaganda.

23. The Prosecutor resumed the case by calling, among other witnesses, Professor Filip Reyntjens and Captain Luc Lemaire, a former "blue helmet" with the Belgian contingent of UNAMIR in Rwanda in 1994.

24. Unfortunately, the trial was adjourned on 27 March 1998 because of the precarious state of health of the accused,

and then of his counsel. It will not resume until they can again attend the hearings.

c. *The Prosecutor v. Jean Kambanda* (ICTR-97-23-T)

25. Jean Kambanda, a former Prime Minister in the interim Government of the Rwandese Republic formed in April 1994, was arrested during operation "Naki" in July 1997. During his initial appearance before Trial Chamber I, on 1 May 1998, he pleaded guilty to the six counts in the indictment against him: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, complicity in genocide, and crimes against humanity (two counts). Jean Kambanda was therefore the first person found guilty by the Tribunal, and the first person ever to plead guilty to the crime of genocide before an international jurisdiction. The pre-sentencing hearing was held on 3 September 1998. On 4 September, Mr. Kambanda was sentenced to life imprisonment. In its judgement, the Trial Chamber took the view that the aggravating circumstances surrounding the crimes committed by Jean Kambanda far outweighed the mitigating circumstances. Above all, it contended, the fact that he occupied a high ministerial post at the time he committed the said crimes definitely ruled out any possibility of mitigating the punishment. On 7 September 1998, the defence appealed against that decision on the following grounds: the excessive nature of the penalty; the failure to take account of such mitigating factors as Mr. Kambanda's guilty plea and his cooperation with the Office of the Prosecutor; and the failure to impose a separate sentence for each count.

26. As a matter of record, Mr. Kambanda's guilty plea followed an agreement between him and the Prosecutor on 29 April 1998, in which he acknowledged all the allegations against him, undertook to cooperate with the Prosecutor by providing information on the events in which he was implicated, and expressed his willingness to testify for the prosecution in other cases before the Tribunal.

d. Motions and decisions

27. In addition to conducting the ongoing trials, the Trial Chamber has handed down a number of decisions on motions and applications filed by the Office of the Prosecutor and defence counsel. In most cases, that was before the trial phase.

(ii) Trial Chamber 2

a. *The Prosecutor v. Clément Kayishema and Obed Ruzindana* (ICTR-95-1-T)

28. Since the latest plenary session, this trial entered its second phase, extending from 29 September to 27 November 1997. During that period, the Prosecutor called 22 witnesses, bringing to 36 the number of witnesses appearing in 1997. The Prosecutor tendered 294 exhibits in 1997, as against 12 submitted by the defence. The trial was adjourned to 9 February 1998, on which date the Chamber began the third phase. That phase ended on 13 March 1998 with the Prosecutor making the closing speech after 52 witnesses had been heard and 345 exhibits tendered. The trial was adjourned to 11 May 1998, so as to allow the defence to prepare its case.

29. During this trial, a number of motions were made and heard. The Prosecutor made two motions, one for additional witness protection measures and the other for in camera hearing of statements by some prosecution witnesses. In the second phase of the trial, the defence made a motion for defence witness protection measures. In the third phase of the trial, defence counsel for Clément Kayishema also made a motion for defence witness protection measures, to which the Chamber agreed.

b. Other cases

30. The cases in question, which have not yet reached the trial stage, are as follows: *The Prosecutor v. André Ntagerura* (ICTR-96-1OA-T); *The Prosecutor v. Elie Ndayambaje* (ICTR-96-8-T); *The Prosecutor v. Gérard Ntakirutimana and three others* (ICTR-96-10-T); *The Prosecutor v. Gratien Kabiligi and Aloys Ntabakuze* (ICTR-97-30-T); *The Prosecutor v. Jean Bosco Barayagwiza* (ICTR-97-19-I); and *The Prosecutor v. Sylvain Nsabimana* (ICTR-97-29A-I).

31. In the *Théoneste Bagosora* case (ICTR-96-7-I), from 1 July 1997 to 30 June 1998 six motions were heard, including one by the Belgian Government requesting a hearing as an amicus curiae. The hearing on the merits scheduled for 12 March 1998 could not be held, since the Prosecutor had issued a joint indictment involving Mr. Bagosora and announced that the case would be dealt with on the basis of that joinder.

32. In the *Samuel Imanishimwe* case (ICTR-97-36-I), the Second Trial Chamber heard five motions calling, among other things, for the separation of the cases.

(b) Delays in the conduct of trials

33. For a number of reasons there were many delays during both the pre-trial and the trial phases. These delays, which are a matter of great concern to the Trial Chambers, have given rise to criticism of the Tribunal, which has been accused of being too slow in administering justice.

34. To fully appreciate the reasons for the delays, it is necessary to draw a distinction between the three stages of each trial.

35. In the first stage, which is when the accused is transferred to the Tribunal's Detention Facility for an initial appearance, the Registrar must try to determine whether the accused is indigent so as to assign counsel to him or her as soon as possible if necessary, and to proceed with arrangements for the initial appearance. In one case, however, the accused objected to the assignment of a given counsel and requested representation by another counsel, which inevitably delayed the proceedings. The Tribunal is equally concerned to respect and safeguard the right of the accused to be effectively represented and to have a fair trial, and to ensure that his or her trial is rapid. It therefore had to act decisively, instructing the Registrar to replace the counsel assigned and promptly schedule an initial appearance.

36. During the second stage, from the initial appearance to the point where the trial begins, with an introductory statement by the Prosecutor and the submission of evidence during the hearing, defence counsel must be given sufficient time to prepare the case, carry out necessary research, compile evidence and identify witnesses, all of which takes time. In view of problems relating to the safety of witnesses, their resettlement and transferring them safely to and from the Tribunal, the Chambers normally grant requests for adjournment of trials; they have, however, had to devote much time to hearing a large number of motions by parties concerning such matters as the Tribunal's competence, drafting flaws in indictments, transmittal of documents, witness protection and joinder of cases, and also occasionally the replacement of defence counsel. In each case where counsel was replaced, it was necessary to ensure that the new counsel was given the required additional time to study the case. Over 200 motions have been heard and a corresponding number of decisions have been rendered by the Tribunal since 1996.

37. The third stage is that of the trial, during which the parties present their evidence and which ends with the closing speech for the prosecution and/or the closing speech for the defence. Delays at this stage are mainly attributable to difficulties encountered by all parties in locating witnesses and to the hearing of motions by parties during the trial.

38. Delays in trials are thus basically attributable to factors relating to the normal administration of criminal justice in general, and particularly at the international level. Among such factors are the hearing of motions by parties and difficulties relating to the location, transfer and safety of witnesses. The Chambers regularly hold preparatory meetings to plan the conduct of trials. In so doing, the Judges of the Trial Chambers have always endeavoured to ensure that judicial vacancies coincide with inter-sessional periods, so as to avoid delays in trials. The only instances in which some proceedings may have been delayed have been when normal judicial vacancies could not be made to coincide with agreed inter-sessional periods, when the President or a judge has been invited to represent the Tribunal at United Nations meetings or meetings in other international forums, or when a judge has been unable to sit for health or other personal reasons.

(c) Provisional detention and new indictments

39. The indictments issued in respect of Laurent Semanza (ICTR-97-20-I) and Jean Bosco Barayagwiza (ICTR-97-19-I), who were arrested in Cameroon in 1996, were confirmed by Judge Aspegren on 23 October 1997. The detainees were subsequently transferred to the seat of the Tribunal, in Arusha. Their initial appearances took place on 16 and 23 February 1998, respectively, at which they both pleaded not guilty in respect of all the charges against them.

40. In July 1997, seven accused persons and suspects were arrested during the NAKI (Nairobi-Kigali) operation organized on the Prosecutor's initiative. Pauline Nyiramasuhoko and her son Arsène Shalom Ntahobali (ICTR-97-21-I), in respect of whom an indictment had already been issued, were transferred to Kenya, to the seat of the Tribunal, where their initial appearance took place on 3 September and 17 October, respectively. They both pleaded not guilty in respect of all the charges against them.

41. Hassan Ngeze (ICTR-97-27-I), Sylvain Nsabimana (ICTR-97-29A-I), Aloys Ntabakuze (ICTR-97-30-I) and Gratien Kabiligi (ICTR-97-34-I) were also arrested in the course of the NAKI operation, and their indictments were all confirmed by Judge Aspegren. During their initial appearances before the Tribunal, they all pleaded not guilty.

42. The indictments in respect of Georges Ruggiu (ICTR-97-32-I) and Samuel Imanishimwe (ICTR-97-36-I) were confirmed by Judge Aspegren. The accused, who had been arrested in Kenya and transferred to the Tribunal's Detention

Facility, both pleaded not guilty during their initial appearances before the Tribunal.

43. Thirteen other individuals whose indictments have been confirmed have not yet been arrested. Arrest warrants and transfer and provisional detention orders have been issued in respect of two other suspects. One accused individual, Mr. Elizaphan Ntakirutimana, was arrested in the United States; after being released by a Texan judge in December 1997, he was arrested again in February 1998. United States courts are conducting additional proceedings with respect to the Tribunal's transfer request.

44. So far, the Tribunal has confirmed 26 indictments issued in respect of 43 individuals, 31 of whom are being held at the detention facility in Arusha.

(d) Joint indictment

45. On 6 March 1998 the Prosecutor submitted a joint indictment, for confirmation by a judge, in respect of *Théoneste Bagosora and 28 other individuals*. Eleven of these accused persons, in respect of whom confirmed indictments had previously been issued, were being held in Arusha and had already appeared before a Trial Chamber. Their trials were approaching the stage of the submission of evidence (first group). In the case of two of these individuals, hearings on the merits were scheduled for March and April 1998. The indictments in respect of five other individuals who were still at large had been confirmed (second group). Only the indictments in respect of 13 other individuals had not yet been confirmed (third group).

46. Judge Khan, in his decision of 31 March 1998, dismissed this joint indictment, which he considered inadmissible as drafted, on the grounds that he was not competent to confirm the indictment, particularly in respect of the 11 individuals in the first group, since they had already appeared before a Trial Chamber. Judge Khan also expressed the view that he had no competence with respect to the individuals in the second group, since they fell within the competence of the previous confirming judge; he also maintained that such an indictment could have been issued in respect of the third group, had it not been for the Prosecutor's insistence on maintaining the indictment as it stood – hence the Judge's refusal to consider the substantive aspects of the charges against that group.

47. The Prosecutor requested authorization to appeal that decision. The Appeals Chamber, having rejected his request for a stay of proceedings with respect to the accused individuals dealt with in the indictment, rejected that request as well.

B. The Office of the Prosecutor

48. The following developments took place in the period from 1 June 1997 to 31 May 1998. During that period, the activities of the Office of the Prosecutor were reinforced by the dynamics of a strategy designed to achieve some of the goals laid down in its mandate to prosecute those responsible for the events in Rwanda in 1994.

1. Strategy of the Office of the Prosecutor

49. In the period in question, the Office's strategy consisted in reorganizing the investigation and prosecution sections with a view to improving coordination of the Office's activities and taking account of requirements relating to the proceedings under way in Arusha. Another aim of this new policy was to take account of a number of requirements relating, on the one hand, to the nature of the crimes prosecuted, such as conspiracy to commit genocide and sexual crimes, and on the other hand, to proceedings under way before the Tribunal.

(a) Restructuring

50. The Office of the Prosecutor in Kigali has, since its establishment, operated on the basis of an Investigation Section and a Prosecution Section. These two sections always functioned with a very small staff, despite the Office's manning table and the requirements of its mandate. The Office's organization chart for the 1997 budget period makes provision for 137 posts, whereas at 1 May 1998 only 80 of the posts in question were filled and recruitment action was being taken in respect of 50 other posts.

51. The Investigation Section is headed by a temporary Director of Investigations, assisted by two commanders, who are also temporary.

52. The investigative teams that have been set up are chiefly responsible for collecting evidence implicating State and political authorities in crimes committed in Rwanda in 1994 that fall within the Tribunal's jurisdiction. Two teams are more particularly concerned with sexual crimes and the role played by the media in the events in question.

53. The Prosecution Section has only two trial attorneys and four assistant trial attorneys. A Chief of Prosecutions will need to be recruited to coordinate the prosecution activities, particularly at the court level.

54. The Legal Section comprises 16 lawyers divided into two teams: one team of legal advisers assigned to investigations and another to prosecutions. The Chief of the

Legal Section coordinates the activities of the two legal structures.

55. A Drafting Committee examines the draft indictments drawn up by the legal advisers assigned to investigations. A Revision Committee from the Prosecution Section with additional lawyers from the Investigation Section is responsible for drawing up the final indictment.

56. The Legal Section in the Office of the Prosecutor collaborates closely with the Legal Section in the Office of the Prosecutor for the Yugoslavia Tribunal in the context of an exchange of information on views on the legal issues relating to the activities of the two jurisdictions.

(b) Investigations

(i) Conspiracy to commit genocide

57. The investigations have revealed the existence of a nationwide plot in which the State authorities and elements of civil society, in particular members of the militia, were implicated. Determination of the components of the application and execution of this conspiracy remains a major objective of the investigations. To this end, investigations are being conducted throughout the territory of Rwanda (in the prefectures where security still permits) and in many countries.

58. The admission of guilt on 1 May 1998 by Jean Kambanda, former Prime Minister of the 1994 interim Government in Rwanda, is a tangible result of the investigations. Mr. Kambanda pleaded guilty, *inter alia*, to the count of conspiracy to commit genocide.

(ii) Sex crimes

59. The investigations are continuing to seek to shed light on the extent of these crimes. A total of 85 statements by witnesses has been compiled. This does not however exclude the probability of a larger number of victims potentially prepared to testify about these crimes and their perpetrators.

(iii) Testimony

60. A total of 546 statements by witnesses has been obtained. These are additional to some 1,500 other statements collected in preceding periods. This numerical result of the investigations also attests to the quality of the information and evidence collected. Consolidation of the evidence has made it possible to formalize 12 indictments and take the initiative of consolidating certain procedures already pending before the Tribunal.

61. The NAKI operation has enabled the arrest of seven suspects and two accused, among them leading figures from the 1994 interim Government, including the Prime Minister and the minister responsible for family affairs. This constitutes a major success for the strategy of the Office of the Prosecutor with respect to investigating and identifying those responsible for the massacres that took place in Rwanda in 1994. The successful conclusion of the operation was possible thanks to the cooperation of the Kenyan authorities.

(c) Prosecution

Amendment of indictments and consolidation of proceedings

62. The results of the investigations continue to reveal the interlinkages among all the crimes committed in Rwanda. Thus, some indictments have been amended with a view to consolidating elements of proof. In addition, the Prosecutor intends to continue bringing joint indictments against groups of individuals presumed to be guilty of the crime of conspiracy to commit genocide and other crimes provided for in the Statute of the Tribunal. In addition, the Prosecutor has been authorized by the competent Chamber to amend the indictment against Jean-Paul Akayesu to include the crime of rape as a constituent element of the crimes of genocide and other serious violations of international humanitarian law.

2. Judicial activities of the Office of the Prosecutor

(a) Recourse to rule 40 *bis* of the Rules

63. The Tribunal has authorized the Prosecutor, at his request, to have recourse to article 40 *bis* in order to transfer suspects arrested and detained in other countries on the basis of rule 40 of the same Rules. This has been done *inter alia* in the context of the NAKI operation.

(b) Confirmation of indictments

64. During the reporting period, the Office of the Prosecutor filed 12 new indictments, which were confirmed, with the exception of one, covering 29 accused, which was rejected. The Prosecutor has appealed the decision to reject.

(c) Proceedings before the Chambers

65. Following the confirmation of these indictments, the Prosecutor has had to respond to the preliminary motions raised by the defence. She has also had to file specific applications on issues of procedure and protection of

witnesses. In all, the Prosecutor has filed 76 applications before the Tribunal.

(d) Trials

(i) The *Jean-Paul Akayesu* case

66. The trial began on 9 January 1997 before Trial Chamber 1. The hearings were closed in March 1998. The case has been adjourned for consideration with a view to a decision as to the guilt of the accused.

(ii) The *Georges Rutaganda* case

67. Begun on 18 March 1997, the case is still pending before Trial Chamber 1. It is likely to resume very shortly with the submission of probative evidence by the defence, as soon as the state of health of the accused so permits.

(iii) *Clément Kayishema* and *Obed Ruzindana* case

68. The trial began on 9 April 1997 before Trial Chamber 2. After all the witnesses for the prosecution had been heard, the defence began to present its case.

69. For the requirements of these trials, the Prosecutor called 62 witnesses from Rwanda. In addition, there were expert witnesses and other witnesses who had served as investigators in the Office of the Prosecutor.

3. Other activities of the Office of the Prosecutor

70. The other activities of the Office of the Prosecutor have comprised building on what has already been done and promoting cooperation with our various partners in the international community.

(a) Regulatory activities of the Prosecutor

71. Under rule 37 of the Rules, the Prosecutor prepared an internal document (Prosecutor's Directive No. 1 (1998)) designed to regulate the procedure to be followed subsequent to an application made by a national authority to hear a person detained by the International Criminal Tribunal for Rwanda.

(b) Seminar on sex crimes

72. In October 1997 a seminar on sexual aggression was held in Arusha, organized jointly by the prosecutors' offices of the tribunals for Rwanda and the former Yugoslavia. The Special Adviser to the Secretary-General of the United Nations on Gender Issues and the Advancement of Women, a representative of the Rwandan magistracy, international experts on the subject and representatives of Rwandan non-governmental organizations participated in the meeting. A clear statement was given of the Office's policy in this area, thus permitting a fruitful exchange on the legal and social aspects of these crimes.

(c) Cooperation with the Rwandan Government

73. The Office of the Prosecutor has maintained good relations with the Rwandan governmental authorities, and these have been reflected in better coordination of its investigations at the State institutional level and access to certain pending proceedings before the Rwandan courts. The cooperation of the Rwandan State also facilitated the travel to Arusha of the prosecution and defence witnesses living in Rwanda.

(d) Cooperation with the international community

74. In the course of their travels around the world, the Prosecutor and the Deputy Prosecutor have attempted to stimulate and strengthen cooperation by the international community in the accomplishment of their mission. They have visited many countries and United Nations Headquarters, where they had frequent meetings with representatives of international organizations. These visits have enabled them to define the outlines of the cooperation sought by the Office of the Prosecutor.

75. The Prosecutor and the Deputy Prosecutor have attended international meetings and given lectures in Europe, Asia and North America on the unique experience of the two ad hoc tribunals as a forerunner to the establishment of a permanent international criminal court.

C. The Registry

76. Thanks to the new dynamism imparted by the Registrar, a series of measures has been initiated to improve the efficiency and effectiveness of the Tribunal's operations, including systematic implementation of the recommendations contained in the first report by the Office of Internal Oversight Services of the United Nations Secretariat. In its follow-up report issued in February 1998, OIOS was able to conclude that substantial improvements had taken place in almost all sectors of the Tribunal's operations.

1. Judicial activities

77. The construction of the second courtroom, which became operational on 29 August 1997, has made it possible for the two trial chambers to operate simultaneously and for

the proceedings before the Tribunal to be speeded up. With the recruitment of a Deputy Registrar, the Judicial and Legal Services Division of the Registry now has the essential link required for the ongoing systemization of the function of judicial support to the chambers and the other parties in the proceedings before the Tribunal. It is the Deputy Registrar who is responsible among other things for supervising the activities of this Division.

(a) Management of judicial activities

78. Management of these activities is the responsibility of the Court Management Section of the Registry. Its responsibilities comprise making the necessary administrative arrangements for the organization and effective conduct of the hearings and other proceedings before the Tribunal, as regards *inter alia* drawing up the court calendar (in consultation with the chambers and the parties), documents distribution, technical support, and drafting of the minutes and verbatim records of hearings. This Section is also responsible for classifying and distributing the judgements, orders, applications, pleadings and other official documents of the Tribunal, as well as for receiving and archiving the exhibits presented by the parties during the proceedings.

79. One of the difficulties that this Section faces on a daily basis is that of being able to manage the quite often conflicting interests of the parties when drawing up the court calendar, the ultimate approval of which rests with the chambers, the competent judge or the President of the Tribunal. The Directive on Court Management, submitted by the Registrar and adopted at the fifth plenary session of the Tribunal judges, proposes appropriate procedures designed to manage these constraints, as well as all the other difficulties arising from the day-to-day administration of the Registry's judicial activities, in a professional manner. From this point of view the bringing into service of the second courtroom has made a decisive contribution to improving the design and management of the court calendar.

80. The Registry now has a special unit in the Court Management Section for transcription of the hearings into the Tribunal's two official languages. It consists of a team of professional court stenographers recruited by the Registry. Using electronic equipment with which they are provided, the stenographers are, with a decreasingly short time-lag, producing transcripts of the hearings, thus enabling the judges and all the parties to discharge their respective responsibilities increasingly effectively. A manual drawn up for the Tribunal's stenographers makes it possible to harmonize the practices drawn from the various legal systems from which the persons concerned come, and thus to ensure respect for the standards of the profession.

81. During the reporting period, four appeals were filed against decisions handed down in cases: (a) *Joseph Kanyabashi* (ICTR-96-15-T); however, this appeal was subsequently withdrawn; (b) *Pauline Nyiramasuhuko and Arsène Shalom Ntahobali* (ICTR-97-21-I); (c) *Georges Anderson N. Rutaganda* (ICTR-96-3-T); (d) *Théoneste Bagosora and others*. Sitting in Arusha on 8 June 1998, the Appeals Chamber of the Tribunal handed down two decisions: one, in the *Rutaganda* case, rejecting the motions by the defence that the Prosecutor should be ordered to conduct investigations relating to false witness against two prosecution witnesses; and the other rejecting the request for authorization to appeal filed by the Prosecutor in the *Bagosora case and 28 others*. In a prior decision in the latter context, the Chamber had rejected the application by the Prosecutor for a stay of all proceedings with respect to the accused referred to in the collective indictment.

(b) Victims and witnesses

82. Despite the difficulties, the Registry Unit responsible for witness and victim support enjoyed unprecedented success. In July 1997, the Victims and Witnesses Support Unit was made a section as part of the internal reorganization of the Registry, in recognition of the importance of its activities and the need to enhance the effectiveness of its operations. For this reason the Section now has a suboffice in Kigali, Rwanda, in addition to the main office in Arusha.

83. The main office is basically responsible for the overall coordination of the Section's activities, particularly the provision of protection and support for both prosecution and defence witnesses. This support takes the form of financial, medical or other assistance. The main office is also responsible for organizing the travel of witnesses to and from Arusha.

84. The Kigali office has responsibility within Rwanda for operations such as travel and relocation and other activities relating to witnesses resident there. It serves as a liaison with the local Rwandan authorities in the context of implementing the witness support and protection programme.

85. The Tribunal has succeeded in bringing to Arusha and returning to their homes more than 100 witnesses, including victims of sexual violence and expert witnesses from several countries. Whether they testified for the prosecution or for the defence during the trials at Arusha, all received the same treatment. Twelve witnesses who were considered to be at particular risk were permanently relocated in Rwanda and another country. Negotiations are under way with a number

of Governments with a view to reaching agreements on some aspects of the way post-testimony protection of witnesses at risk is handled.

86. From June 1997 to the present, no potential or actual witness before the Tribunal has lost his or her life as a result of his or her real or presumed relationship to the Tribunal.

(c) Relations with the defence counsel

87. The Tribunal's system of legal assistance is chiefly governed by the Directive on the assignment of Defence Counsel (the Directive). First adopted on 9 January 1996, this document has been amended several times in order to reflect the Tribunal's experience in this area. Implementation of the Directive is essentially the responsibility of the Lawyers and Detention Facility Management Section of the Registry, created on 1 July 1997.

88. In particular, this Section is responsible for maintaining the list of counsel who have expressed a desire to represent the accused, suspects or other indigent persons who have been detained under the Tribunal's authority as provided for in rule 45 of its Rules of Procedure. The number of persons on this list grew exponentially as the Tribunal's activities became more known internationally, peaking at 284 persons representing 34 nationalities. This number has decreased significantly in the wake of recent amendments to the Rules of Procedure and the Directive which imposed new eligibility requirements, namely a minimum of 10 years of documented professional experience. At present, the Tribunal has 43 counsel (including co-counsels) from 15 countries assigned by the Tribunal.

89. To date, the Tribunal has no unassigned lawyers. After initially declaring himself capable of meeting the expenses of his defence before the Tribunal, the accused Hassan Ngeze subsequently retracted that claim and requested that counsel should be assigned to him.

90. As almost all duty counsel live outside Arusha, the Registry has continued to provide them, at Tribunal headquarters, with the minimum facilities required for their work during their stay in Arusha. In addition to two rooms adjacent to the courtrooms, they have been given two offices equipped with computers, telephone lines and a fax machine. Each one has also been issued a locker in which documents are delivered whenever counsel are in Arusha. Additional lockers now allow each defence team to have enough space to hang up their robes and store important documents. Owing to the lack of reliable public transport, the Registry provides counsel with transport for official travel within Arusha, to and from the airport, Tribunal headquarters and the Detention Facility. These facilities are in addition to the other human and material resources made available to counsel as they defend their clients' interests. These include: (a) assignment, where necessary, of a co-counsel to assist the chief counsel in carrying out his work; (b) authorization to use the services of investigators, research assistants and experts, and so forth.

91. However, the entire legal assistance programme can only remain viable through increasingly rational management of the extremely limited resources available. Accordingly, on 2 April 1998 the Registrar convened a meeting in Arusha of the Advisory Council which is provided for in article 29 of the Directive and is composed of representatives of the major international bar associations. On the basis of their expert opinion, an improved system for monitoring expenses and assessing the fees of lawyers and their teams was instituted. The Code of Ethics for lawyers appearing before the Tribunal, adopted by the fifth plenary session of judges on the proposal of the Registrar, is an essential link in the constantly evolving legal framework of the Tribunal's legal assistance system.

(d) Detention facility

92. The Tribunal's detention facility has been the focus of much attention during the period under review. Additional staff have been assigned to the facility, including a new Commander, and a certain amount of construction has been completed. The facility contains 52 cells, six of which are reserved for women detainees as necessary. Since July 1997 the facility has been visited by representatives of the International Committee of the Red Cross (ICRC), who were asked by the Tribunal to study and report on all aspects of detention conditions and to ensure that those conditions met internationally recognized human rights or humanitarian law standards. At the conclusion of these missions, ICRC systematically declared that it was satisfied with the work done in that area, and that assessment was consistently reflected in the reports submitted on the subject.

93. This satisfactory operation of the Detention Facility is made possible largely through the cooperation of the host country, which provides reimbursed support in the transfer and security of detainees.

2. Information and communication activities

94. The Press and Information Section intensified its activities and redefined its targets during the period under review. Its current mailing list, which has over 850 recipients, includes news services in Kigali, Nairobi, Dar es Salaam, and Addis Ababa and international and non-governmental organizations, embassies and diplomatic posts

in the subregion, a number of universities and major law schools, and lawyers on the duty counsel roster. The mailing list also includes the United Nations Secretariat, the members of the Security Council, the Group of 77 and the Group of African States, senior staff of the International Criminal Tribunal for the former Yugoslavia, the main offices in New York concerned with the Tribunal's activities, United Nations Information Centres and Permanent Missions to the United Nations.

95. Information is disseminated by fax, electronic mail or post. Most of the mailing list is handled directly by the Tribunal's headquarters in Arusha, while another part, comprising persons and institutions located in Rwanda, is dealt with by the offices in Kigali.

96. Information consists mainly of public documents issued by the Tribunal or concerning it: the Statute, Rules of Procedure and Evidence, the Directive on the Assignment of Defence Counsel, the provisional Rules governing the detention of persons awaiting trial or appeal before the Tribunal, the Code of Ethics for lawyers appearing before the Tribunal, indictments, motions, orders, decisions and so forth.

97. The Press and Information Service produces the following supporting materials: press releases; a bimonthly news bulletin (*ICTR News*); an overview of the Tribunal, updated monthly (*ICTR Fact Sheet*); a full and detailed history of the Tribunal (*Introduction to the ICTR*); a document, part press release and part legal analysis of cases, entitled *ICTR Updates*, issued whenever a major legal event takes place (outcome of a trial, submission of a new accusation, etc.). A calendar of the Tribunal's activities is issued regularly. All these documents are issued in French and English, and in Kinyarwanda when necessary.

98. A media assistance policy has made it possible for the Registry to ensure, with the help of the United States Agency for International Development (USAID), the quasi-permanent presence in Arusha of Rwandan journalists. Their regular reports to Rwanda in Kinyarwanda, French and English have revolutionized the Rwandan people's perception of the Tribunal. The Tribunal has also facilitated the permanent establishment in Arusha of the media, including three news services and non-governmental organizations dealing with communications: Fondation Hirondelle, of Switzerland; Intermedia, of France; and Internews, from the United States of America. A dozen local journalists representing the major Tanzanian newspapers attend the Tribunal on a regular basis. A total of 202 journalists are accredited with the Tribunal.

99. The major news services (Agence France Presse, Reuters, Associated Press, Kyodo News), globally recognized broadcasting companies (BBC, CNN, CBC, WTN, VOA, RFI) and noted newspapers (*Toronto Star*, *The New York Times*, *The Washington Post*, *Le Monde*, *Libération*, *L'Express*, etc.) have visited the Tribunal in order to cover its activities between June 1997 and May 1998.

100. More systematic relations with other United Nations bodies and agencies, such as the Office of the Secretary-General, the Office of the Spokesperson, the Department of Public Information, the Office of Legal Affairs, the United Nations Information Centres and offices around the world have also improved the dissemination of information about the Tribunal.

101. During the period covered by this report, the Press and Information Section issued 74 press releases and *ICTR Updates*. A total of 892 public documents was transmitted to Kigali by fax, electronic mail or postal service for the media, non-governmental organizations, United Nations agencies and programmes, embassies, lawyers and so forth. The Section received 685 requests for documents from the press and 410 requests from the public. In addition, it organized 29 guided tours of the Tribunal for universities, various leaders and other interested groups.

3. Group on Gender Issues

102. Created in 1997, the Group on Gender Issues is intended to provide advisory services on questions related to gender issues within the Tribunal and to victims and witnesses. It is also responsible for developing strategies for improving the necessary support for victims and witnesses.

(a) Problems related to gender issues

103. In order to rationalize questions relating to parity within the Tribunal and ensure the implementation of the relevant administrative instruction of the Secretary-General (ST/AI/412) on the achievement of gender equality, the Group carried out a statistical study of the distribution by sex of the staff of the Tribunal. This study was used in the context of various interdepartmental meetings (Arusha) and at a number of awareness-raising events (Kigali) to provide guidance for the Tribunal's recruitment policy with a view to taking fuller account of the female element. The Group is working closely with the Personnel Section and the staff association on all matters relating to the marginalization of women, sexual harassment, family problems, etc.

104. The Group represented the Tribunal at various regional and international meetings on questions relating to women,

including the following: equality issues arising from the genocide in Rwanda and the trials in Arusha (Arusha, October 1997); second workshop on crimes of sexual violence (Arusha, October 1997); questions of equality and persecution (Toronto, November 1997); women, land ownership and property rights (Kigali, February 1998); and women, war and justice (Geneva, April 1998).

105. The Group has reviewed the problems which arise for women, as described by the victims and the witnesses; these problems will be taken up in the context of the project which is currently being finalized entitled "Programme of assistance for justice and reconciliation".

(b) Assistance to victims

106. In order to involve victims and potential witnesses in defining the type and amount of the support they believe to be necessary, in accordance with the provisions of rule 34 (ii) of the Rules of Procedure and Evidence, in August 1997 the Group carried out an evaluation of needs on the basis of which a description of the project, taking into account their suggestions and expectations, was drawn up. This document was subsequently supplemented with observations by the Office of Legal Affairs of the United Nations Secretariat, in November 1997.

107. In the context of the missions to Rwanda in February and March 1998, planning meetings were organized at Kigali focusing on the formulation of appropriate strategies for assistance to victims/witnesses and the definition of priorities. They were held with the participation of local non-governmental organizations which provide assistance to victims' and women's associations – our main partners – and some government representatives. Field visits, in particular to women's associations and women held in the prisons in Kigali, were also organized.

108. After a lengthy process of consultations, the final phase of which closely involved the office of the United Nations Development Programme (UNDP) at Kigali, the final version of the description of the project "Programme of assistance for justice and reconciliation" was issued in May 1998. At the same time, valuable contacts were established by the Group with various donors who have shown a keen interest in financing the project.

(c) International cooperation

109. The Group has participated in discussions with the representatives of various United Nations bodies, both in Kigali and in Arusha (including UNDP, the Office of the United Nations High Commissioner for Human Rights, UNESCO, the United Nations Centre for Human Settlements and the United Nations Development Fund for Women). Contacts have also been made with senior officials of many countries who visited the Tribunal (Belgium, Denmark, Finland, Norway, Rwanda, Switzerland, United Kingdom) and international associations for the protection of human rights.

4. Library

110. As the library has become fully operational, the fledgling library which existed before has progressively evolved into a more organized structure, thereby becoming, to a far greater extent than in the past, an effective working tool and aid to decision-making for judges and their assistants, the Office of the Prosecutor, the Defence counsel, and the Registrar. In the opinion of all these users themselves, the result has been a substantial improvement in their working conditions, particularly at the level of research and access to information. The library issues a weekly bibliography containing a list of new acquisitions and a summary of the periodicals received recently. Administratively, the library is under the direct supervision of the Deputy Registrar.

111. Since the first quarter of 1998, it has been possible to carry out research from Arusha on Lexis-Nexis and on a number of other databases through the Internet. With the acquisition of more spacious premises, better suited to the needs of readers, expected by the end of 1998, the creation of a cyberspace is envisaged. It should offer to all users the possibility of carrying out individual research on Lexis-Nexis, the Internet, and CD-ROMs, as well as access to the database of the Tribunal library. In addition, there would be access to the United Nations Optical Disk System (ODS), which would make it possible to obtain all United Nations documents instantaneously in real time. The Kigali library, where a librarian has also been recruited recently, should have comparable services in the near future. In the meantime, research for Kigali is carried out from the library in Arusha, and then retransmitted to the persons concerned by electronic mail or by facsimile.

112. During the reporting period, the two libraries received donations from the Canadian, Danish and Irish Governments; various Canadian and United States associations; and non-governmental organizations for human rights and university and/or research institutions, particularly from Germany and Switzerland. These donations enabled the two libraries to establish a sizeable core of holdings and subscribe to a number of periodicals and journals. Many publications have been received from the United Nations.

113. Short-term projects are concerned with, in particular, the recruitment of additional staff, the acquisition of new electronic equipment, the enhancement of existing collections, subscription to additional periodicals, and the acquisition of supplementary CD-ROMs. The establishment of a database of holdings, prior to the full computerization of the library, is also under way.

5. Administration

114. The Administration Services Division is responsible for providing support to all activities of the Tribunal in the following areas: personnel, finances, language services, security, and general services. Over the past year, the emphasis has been placed on questions relating to personnel, premises and logistics.

115. The balance of the budget for the year 1997, $15,128,200 (net) ($18,402,500 gross), including authorization for expenditure for the last six months of the year, was approved in General Assembly resolution 51/215 of 13 June 1997. The appropriation for the entire year therefore amounted to $35,974,800 (net), or $41,517,450 (gross). It represents an increase of 35 posts compared with the number of posts which had been authorized in the staffing table for 1996; the incumbents of these posts had their contracts extended to 30 June 1997.

116. The annual budget for 1998, amounting to $50,879,100 (net), or $56,736,300 (gross), was approved by the General Assembly in resolution 52/218 of 22 December 1997. It also provided for an increase in the number of posts compared with the authorized posts mentioned above; this time, the increase consisted of 167 posts, including 111 international posts, divided as follows: 31 Professional, and 80 General Service and related categories. The rest of the posts were local posts.

117. A commitment authorization for about $1.4 million was approved for the period from 1 July to 31 December 1998 by the Advisory Committee on Administrative and Budgetary Questions so as to launch the work for the construction of the third courtroom.

118. The Tribunal has received several offers of voluntary contributions for 1998, which should make it possible to cover a number of basic needs. Following an initiative by the President, the French Government plans to provide audio and video equipment for the courtrooms. The Finnish Government has made a contribution of about $190,000 to improve the Tribunal's communications system and provide transportation to Arusha for witnesses.

119. The Tribunal has accepted offers from other Governments, in particular for gratis personnel, up to 30 June 1998, since the Secretary-General has undertaken to eliminate the services of this category of personnel by that date. Among the Governments which seconded personnel to the Tribunal during this period were Denmark, Germany, the Netherlands, Norway, Switzerland and the United Kingdom.

(a) Personnel

120. As of 1 October 1997, the Department of Management delegated responsibility for all questions relating to human resources management to the Registrar for a trial period of one year. The Chief of Administration signed an agreement, on behalf of the Tribunal, establishing the details of the procedure to be applied during the trial period. Immediately after the delegation of authority, the Registrar set up all the appointment and promotion bodies, consisting of staff members stationed at Arusha and Kigali, and representatives of all the organs of the Tribunal.

121. A staff association was established during the reporting period at Arusha and Kigali: its officers were elected on 3 October 1997, for an initial period of one year. The staff association has undertaken to work with the administration to review problems relating to staff welfare. This year, the staff association helped organize the participation of staff from the Tribunal in the United Nations Inter-Agency Games held at Pesaro (Italy).

122. Thus the recruitment efforts that had been made since June 1997 were continued. During the year 1997, 210 new staff members were recruited, and 189 received offers to renew their contracts with the Tribunal. At the end of the year, however, many posts had not yet been filled. For the 12-month period ending on 30 June 1998, 80 new staff members are to be recruited, including 20 Professionals, 30 General Service and related categories recruited internationally, and 30 local staff.

123. Special attention has been paid to the recruitment of investigators (11), administrative support personnel (30), and courtroom staff (11), particularly court stenographers and security guards. During 1998, the reorganization of the Victims and Witnesses Support Section, which now includes a group at Kigali, necessitated increased recruitment in this area.

124. The Deputy Prosecutor started work in May 1997; and the Deputy Registrar, in March 1998. Recruitment is under way to fill the new post of appeals counsel in the Office of the Prosecutor and the post of Investigations Commander.

125. The recruitment procedure is under way to fill posts (a) in the Office of the Prosecutor (the posts of Chief of Investigations and Chief of Prosecutions, both D-1); (b) in the Office of the Registrar (Chief of the Press and Public Relations Group, Spokesperson); (c) in the Judicial and Legal Services Division of the Office of the Registrar (Chief of the Victims and Witnesses Support Section; Chief of the Lawyers and Detention Facility Management Section; Chief of the Judicial Services Section); and in (d) the Administrative Services Division (Chief of General Services; Chief of the Security and Protection Section; Chief of Procurement; Chief of the Electronic Data Processing Section). The new Chief of Communications took office during the second quarter of 1998.

126. The delays in recruitment may be explained in part by the fact that the procedure of review of files and selection and recruitment of candidates is highly labour-intensive, since the files have to pass through the various recruitment and promotion bodies established to consider these questions, and also because the candidates who are selected need time to prepare to take up their duties. The new restrictions which are applied to recruitment at headquarters in New York also apply to the Tribunal. As a result, temporary recruitment attracts very few candidates. It is therefore difficult to make use of this practice to meet the immediate needs of the Tribunal for Professional staff. The delays in recruitment also result from the fact that it is no easy task to recruit over 200 qualified applicants for a complex range of occupational groups and to motivate recruited staff to remain with the Tribunal.

(b) Logistical and other support

127. Through better organization and higher staffing levels, it has been possible to provide other support services, although the workload, along with vacancies in certain key posts, is continuing to sorely try the capacities of the Tribunal. The Tribunal is experiencing difficulties in its relations with outside parties, and still has to rely on the cooperation of a number of them to facilitate its operation.

128. For example, despite optimistic predictions, since mid-1997 the Tribunal has not been able to obtain additional space for its headquarters in the Arusha International Conference Centre (AICC) complex. It was only during the first half of 1998 that the management was able to provide the additional space needed to set up the third courtroom and provide for the additional staff that were expected. The request for space made by the Tribunal in order to set up a cafeteria at Arusha, a service which would have helped improve the morale of the staff, was rejected by the management. The space to be used for provisional detention cells in AICC has still not been made available. The efforts to increase the capacity of the United Nations Detention Facility have not yet been successful. Indeed, the question of compensation for space allocated by the host country to the detention centre has not yet been finally resolved. It is still under discussion between the Office of Legal Affairs of the Secretariat and the Registrar of the Tribunal. Recent signs offer the hope of a rapid solution, in keeping with the interests of the Tribunal.

129. At Kigali, too, delays in connection with legal issues relating to the preparation of the site selected by the Tribunal for the construction of its premises have meant that it has neither been possible to plan the fitting out of the current premises in a rational manner nor to take steps to allow the Rwandan people to follow on an ongoing basis the conduct of the hearings. The Tribunal is in the process of studying the offer made by the new owner to lease part of the building.

130. Nevertheless, over the reporting period, the second courtroom has been built and fitted out with sound-recording equipment. The two existing courtrooms have been furbished so as to accommodate up to 25 accused at one time. The plans for the third courtroom provide for improvements which, in due course, will be incorporated in the others. Barring delays in the acquisition of premises for use as additional offices, the third courtroom should be ready for use on 31 October 1998.

131. The Administrative Services Division is responsible, *inter alia*, for travel services, purchases, supplies and equipment; buildings management; routine transport such as the everyday transport of detainees and ad hoc tasks such as airport service for staff on official mission or arriving to assume their functions or to welcome visitors; satellite communications; technical services and translation of proceedings; and the provision of technical equipment for information purposes.

132. The satellite communications system was upgraded twice in 1997 so as to allow a more rational division of transponder services between Arusha and Kigali, to provide a direct link between Arusha and Kigali, to expand the capacity for processing traffic with New York by over 300 per cent and to establish a temporary satellite connection with the International Criminal Tribunal for the former Yugoslavia at The Hague. The Tribunal is studying ways of establishing secure communications with duty stations outside headquarters, of establishing teleconferencing services between Arusha and Kigali, and of establishing a fax transmission system with a switching mechanism for

Arusha and Kigali and a permanent satellite link with The Hague.

133. While these state-of-the-art services are being set up, Tribunal users may have access to the Internet through a local provider. The Tribunal's home page went on line in May 1997. For Kigali, access to the Internet is temporarily being provided through Brindisi with the help of the Field Administration and Logistics Division. The Lexis-Nexis system, an on-line legal research tool, has also been installed over the reporting period. Appropriate user training and selective access comprise significant elements of the strategy to ensure rational use of the system.

134. Equipment ordered by the Transport and Electronic Data Processing Sections was received in the final quarter of 1997 and immediately put into service. Additional needs connected with the operation of a third Trial chamber should be known shortly.

III. Cooperation

A. Strengthening of cooperation with the International Criminal Tribunal for the former Yugoslavia

135. Cooperation with the International Criminal Tribunal for the former Yugoslavia has developed and strengthened in virtually all areas and at all levels.

136. Legal cooperation, already on an institutionalized basis as a result of the sharing of a single Appeals Chamber by the two Tribunals, has been a particular area of activity as a result of submission by the parties of several appeals in the context of certain cases. The Registry of the Tribunal has, on these various occasions, provided the logistical and personnel support required by the Appeals Chamber in the discharge of its duties vis-à-vis the International Criminal Tribunal for Rwanda. Permanent arrangements relating to the rational management of this area of cooperation are under discussion between the two Registrars and should be completed at any time.

137. The various organs of the two Tribunals have continuously exchanged information and experience on various aspects of their respective mandates. The International Criminal Tribunal for Rwanda has continued to place at the disposal of the International Criminal Tribunal for the former Yugoslavia, at no cost, its team of expert jurists as well as the necessary equipment for the performance of their work in the former Yugoslavia.

138. Before taking up his duties at Arusha, the Tribunal librarian completed a posting at The Hague, where he made useful contacts with his counterparts in the International Criminal Tribunal for the former Yugoslavia, the International Court of Justice and comparable Dutch institutions.

139. The public information services of the two Tribunals have institutionalized a system for exchanging information on their respective activities. Like the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia will now transmit to Arusha on a regular basis all the public decisions handed down by its chambers.

140. In order to benefit from the experience of the International Criminal Tribunal for the former Yugoslavia regarding audio-visual equipment in the courtrooms, a team from the International Criminal Tribunal for Rwanda travelled to The Hague in September 1997.

141. So as to facilitate contacts between the two Tribunals, the International Criminal Tribunal for Rwanda has developed a direct telephone communication system between Arusha-Kigali and The Hague via New York.

142. The Registrars of the two Tribunals have agreed, in addition to written and telephone contacts, which are already bearing fruit, to institutionalize meetings between senior officials of the two Registries with the aim of exchanging information and views on questions of common interest arising from the functioning of the two Tribunals.

143. Questions relating to witnesses and victims comprise a major area of cooperation, even if the circumstances differ in several ways from one context to the other. Thus, certain specific measures undertaken in the case of the International Criminal Tribunal for the former Yugoslavia are not really applicable to the International Criminal Tribunal for Rwanda, and vice versa. The essential principles of the protection of witnesses, fortunately, are the same.

144. In this connection members of the witnesses and victims' support units met in June 1997 in Geneva, in the context of a week-long meeting on the establishment of common standards for the protection and support of witnesses of the two Tribunals organized by the Swiss international legal non-governmental organization The Coordination of Women's Advocacy (CWA) and funded by the Swiss Government. The meeting served as a forum for the two competent sections of the two Tribunals to meet, discuss their respective experience and begin a process of harmonizing their policies, strategies and activities.

B. Cooperation with States

1. Legal cooperation: arrests

145. Under article 8, paragraph 2, of its statute, the Tribunal has primacy over national courts. Article 28, paragraph 2, of the statute stipulates that:

> "States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber ..."

The Registry, in accordance with rules 40 *bis*, 55 and 56 of the Rules of Procedure and Evidence, transmitted a number of orders, summonses, writs, warrants and transfer orders to the authorities of several States. In general, the latter have cooperated fully with the Tribunal. For example, in July 1997, during the "Naki" (Nairobi-Kigali) operation, the Government of Kenya authorized the arrest and transfer to Arusha of seven suspects and accused. Likewise, in November 1997, the Government of Cameroon authorized the transfer of two accused to the Tribunal's headquarters. Lastly, in April 1998, the Government of Burkina Faso, in turn, arrested another accused at the Tribunal's request.

2. Legal cooperation: witnesses

146. With respect to the travel and safety of witnesses, the Victims and Witnesses Support Unit has benefited enormously from the valuable assistance of the Governments of Rwanda, the United Republic of Tanzania, Kenya, Senegal, Côte d'Ivoire, the Central African Republic, Belgium, Cameroon and the Netherlands. The Government of Rwanda has cooperated fully with the Tribunal in the transfer of detained witnesses to Arusha, where they testified, and, particularly, in the successful internal relocation of certain witnesses who feared for their safety following their testimony. At the Tribunal's request, States Members of the United Nations such as Senegal and the Central African Republic have issued special travel documents to witnesses in need, thereby enabling them to appear before the Tribunal in Arusha and to return to their places of residence following their depositions. The Tanzanian Government, for its part, has provided substantial assistance to the Tribunal by ensuring the safe entry and stay of witnesses in Arusha.

147. The Tribunal has great difficulty in bringing to Arusha witnesses who lack travel documents or whose immigration status in their countries of residence is irregular. In these cases, the Tribunal has negotiated directly with the States concerned. Although the results to date are encouraging, they have been achieved at the price of indescribable efforts which could usefully have been obviated by the issuance of temporary documents by the United Nations. Such documents, which should be guaranteed by the Tribunal and recognized by the States concerned, would undoubtedly facilitate the Tribunal's activities in this key area.

148. A number of Governments have made contributions in kind and in the form of secondment of staff to the Victims and Witnesses Support Unit. In July 1997, the Government of the United States sent the Tribunal a delegation consisting of two eminent experts from the United States Department of Justice Federal Witness Protection Program for a two-week mission aimed at helping the Unit to evaluate and plan its protection programme for witnesses and victims. Two consultants seconded by the United Kingdom spent a total of nine months at the Tribunal to help the Unit improve certain components of its programme, which covers all stages of proceedings, including the temporary or permanent relocation of witnesses, as well as special arrangements such as changes of identity.

149. The support which the Tribunal expects from States in this area could consist of a specific expression of their willingness to accept witnesses in need for purposes of relocation, or to grant them any other facilities required.

3. *Amicus curiae*

150. Rule 74 of the Tribunal's Rules of Procedure and Evidence empowers the Chambers to invite or grant leave to any State, organization or person to appear before it and make submissions on any issue. In 1997–1998, this provision of the Rules of Procedure and Evidence was used by a State for the first time.

151. In the *Bagosora* case (case No. ICTR-96-7-I), the Government of Belgium requested, on 22 September 1997, to appear before the Tribunal as an amicus curiae. This request was presented on 6 March 1998 and authorized by Trial Chamber 2 in its decision of 6 June 1998.

152. Although the party concerned was an international organization and not a State, it should be mentioned here that, in the same case, the Trial Chamber invited a representative of the Secretary-General of the United Nations to appear as an amicus curiae to specify the scope of the waiver of immunity granted in respect of General Dallaire, as prescribed by the Secretary-General.

C. Need for cooperation in the enforcement of prison sentences

153. Under article 26 of the statute, sentences of imprisonment shall be served in Rwanda or any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons, as designated by the Tribunal.

154. Pursuant to Security Council resolution 955 (1994) of 8 November 1994, a number of States have adopted or adapted national legislation to facilitate their cooperation with the Tribunal in connection, *inter alia*, with the enforcement of sentences. The States which have done so with respect to this area are Belgium, Denmark, Norway, Sweden and Switzerland. Of all these countries, Belgium is the only one to have agreed without reservation to incarcerate persons convicted by the Tribunal.

155. While they have expressed their willingness to accept persons convicted by the Tribunal, Norway, and to a certain extent Denmark, have made their decisions contingent on a case-by-case consideration of the individual requests submitted by the Tribunal. Switzerland and Sweden are prepared to accept prisoners, provided that the latter are nationals or residents of those countries, or, in the case of Sweden, have other strong ties to that country.

156. On 7 April 1997, the Secretary-General addressed a letter to all States Members of the United Nations and non-member States having observer status with the Organization, inviting them to inform the Registrar of the Tribunal whether they were willing to enforce prison sentences imposed by the Tribunal. In reply, Norway and Sweden reconfirmed the relevant provisions of their respective national laws, while Ecuador, Estonia, Japan and Liechtenstein indicated that they were not in a position to accept prisoners.

157. The Registrar has embarked on a special diplomatic campaign aimed at requesting the cooperation of African States in the enforcement of sentences. Many of them have shown a willingness to assist the Tribunal, but have also described the sorry state of their prison facilities and the material difficulties they would encounter in attempting to meet the highest international standards regarding the rights of detainees. These States asked whether the Tribunal was in a position to provide them with material assistance for that specific purpose.

158. Since the enforcement of sentences should take place, to the extent possible and for obvious socio-cultural reasons, in an environment which is comparable to that in which the convicted persons formerly lived, in this case Africa, the Registrar has requested assistance from certain donors. The Government of the United Kingdom is the first to have agreed to help African States that wish to receive persons convicted by the Tribunal.

D. Support provided by various organizations for the Tribunal's activities

159. The Office of the United Nations High Commissioner for Refugees (UNHCR) in the United Republic of Tanzania have contributed enormously to the Tribunal's efforts to ensure the presence of refugee witnesses. On several occasions, they provided substantial material support for operations to bring witnesses to the territory of the United Republic of Tanzania. Other subregional bureaux of UNHCR in the Central African Republic and Senegal have also helped the Tribunal in its work with respect to the travel of refugee witnesses to or from Arusha. The Swiss international non-governmental organization The Coordination of Women's Advocacy has provided the Tribunal with a forum for developing cooperation with the International Criminal Tribunal for the former Yugoslavia.

IV. Conclusion

160. As the foregoing amply demonstrates, the Tribunal can be said to have reached its "cruising speed" during the reporting period. It certainly benefited from the support of the Security Council, which, by providing it with a third Trial Chamber, encouraged it to forge ahead to ensure that justice is speedily rendered to the victims and survivors of the Rwandan tragedy of 1994 and, at the same time, to promote the process of national reconciliation by ending impunity.

161. The Tribunal also benefited from the constant personal support of the Secretary-General of the United Nations, who, during his historic visit to Arusha on 5 May 1998, hailed the Tribunal's important accomplishments and underscored the need to increase its resources to enable it to carry out, with renewed spirit, the mission entrusted to it by the international community.

162. The support of all States is crucial in this regard, as the two international Tribunals essentially depend on the cooperation of States in exercising the responsibilities entrusted to them by the international community.